UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,471	04/13/2001	Milton Silva-Craig	15-IS-5715	7327

23446	7590	09/19/2006

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EXAMINER
TO, BAOQUOC N

ART UNIT	PAPER NUMBER
2162	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	09/681,471	SILVA-CRAIG ET AL.
	Examiner	Art Unit	
	Baoquoc N. To	2162	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>13 June 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): <u>112 rejection</u>.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: <u>1-9,11-20,23-36,53 and 54</u>.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

    <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: After carefully reviewing applicants remarks, the examiner maintains the grounds of 103(a) rejection in the Final Office action dated on 06/13/2006.

Applicant also argues "a data source in Rothschild does not wait for any trigger to transmit medical data for storage. Thus, Rothschild does not teach or suggest elements of at least claim 1."

The examiner respectfully disagrees with the above argument. As Rothschild disclosure, the local image workstation (20) archives the data locally, and then "pushes" (as explained in detail below) the electronic record to central data management system (30) at a remote location, as described in detail below." (col. 18, lines 53-56). Rothschild's disclosure suggests the after locally archive then pushes to the central data management system 30. The triggering occurs at the local image workstation wherein the data is pushed the central management system only after the data locally archiving.

Applicant also argues "Kumagai does not remedy the shortcoming of Rothschild. Kumagai does not teach or suggest at least a status monitor that (1) triggers an archive request after the medical data is obtained by the data source, where the data source transmits the medical data to the centralized remote data store when the archive request is triggered by the status monitor as to other component of the system to transmit the image data..."

The examiner respectfully disagrees with the above argument. As to Kumagai's disclosure, most medical data is collected at irregular intervals from different human or machine sources, and is stored as a record in databases in the server computers. Some data regularly comes from various kinds of monitoring machines and directly enters the processing unit memory of file server 11..." (col. 14, lines 61-67 to col. 15, lines 1-45). Kumagai suggests the concept of collecting data from data monitoring machine and stores in the memory of the file server 11. Kumagai is not explicitly but rather implicitly to indicate the data monitoring machine monitor the collect data from different human or machine sources and triggers the collection based on the irregular interval in which can be the time based event or even an operator.

Applicant argues "Like Kumagai, Sameshima does not teach or suggest any status monitor at all. Rather, Sameshima only a plurality of processing devices that mutually communicate data to one another via a transmission medium. (Sameshima, col. 4, lines 37-40.)

The examiner respectfully disagrees with the above argument. Like Kumagai, Sameshima discloses the monitoring system to collect data based on an event. Further, Sameshima is more explicit regarding a status monitoring wherein the status monitor control table 234 sets conditions to start/end the collection of the data set in the set in data integration management table 233. Status control processing 225 is a program for detecting... (col. 5, lines 41-51). Sameshima's teaching, clearly shows that the monitoring occur at the processing device by setting conditions to start/end the collection of the data set.

DEBBIE LE
PRIMARY EXAMINER
9/15/06